

REMARKS/ARGUMENTS

Claims 63-67, 73, 76, 78 and 79 are present in this application. By this Amendment, claims 63-67 and 73 have been amended, claims 59-62, 68-72, 74, 75 and 77 have been canceled, and claims 78 and 79 have been added. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Claims 59-67, 71-73, 75 and 76 were objected to in paragraph 2 of the Office Action. With regard to claim 76, the specification describes that the housing 7 acts as a support for the container. See, for example, the specification at page 8, lines 6-11. The specification further describes that the tube 11 holds the container in position with the container seating on the housing 7. See, for example, page 8, lines 12-19.

The Office Action's requirement that Applicant amend the specification "to explicitly state what the corresponding structures are for the [following] means-plus-function recitations" is inconsistent with U.S. patent law. As referenced by the Examiner, MPEP §2181 address this "requirement," providing that the proper test or meeting the definiteness requirement "is that the corresponding structure of a means-plus-function limitation must be disclosed in the specification itself in a way that one skilled in the art will understand what structure will perform the recited function." The MPEP cites *In re Dossel* providing that "the disclosure of the structure may be implicit or inherent in the specification if it would have been clear to those skilled in the art what structure corresponds to the means-plus-function claim limitation." With reference to the sections of the specification noted above, Applicant respectfully submits that those of ordinary

skill in the art would readily appreciate what structure performs the noted functions. As noted, the container is held in position by the tube 11 with the container seated on the housing 7. After the product is blended, the tube 11 is withdrawn from engagement with the container and to permit the container to be removed from the housing 7 ready for use and consumption. See, for example, the specification at page 8, lines 20-26. See also, the drawings. Withdrawal of the rejection is thus respectfully requested.

Claims 59-67 were rejected under 35 U.S.C. §112, first and second paragraphs. In view of the cancellation of claims 59 and 62, Applicant submits that these rejections are moot. Withdrawal of the rejections is requested.

Claims 71-73 were rejected under 35 U.S.C. §112, second paragraph. With regard to claim 76, similar to the objection of claim 76 discussed above, Applicant respectfully submits that those of ordinary skill in the art would readily appreciate what the corresponding structures are for the claimed "securing means" and "means for releasably locating the vessel" As discussed above, the container is held in position by the tube 11 with the container seated on the housing 7. After the product is blended, the tube 11 is withdrawn from engagement with the container and to permit the container to be removed from the housing 7 ready for use and consumption. The Examiner in fact evidences an understanding of the corresponding structures in paragraph 16 of the Office Action; as such, it is apparent that one of ordinary skill in the art would similarly appreciate the corresponding structures. Withdrawal of the rejection is thus respectfully requested.

McGILL
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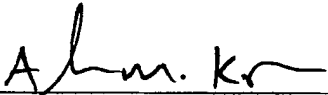
Applicant acknowledges with appreciation the indication of allowable subject matter in claim 76. Without conceding the propriety of the rejections set forth in paragraphs 10-15 of the Office Action, by the present Amendment, claim 76 is the only remaining independent claim, and claims 63-67 and 73 as well as new claims 78 and 79 depend either directly or indirectly on claim 76. As a consequence, Applicant submits that the prior art rejections are moot. Withdrawal of the rejections is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

Respectfully submitted,

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